

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 1540 - SB 1264

March 10, 2011

SUMMARY OF BILL: Transfers contested case hearings under the jurisdiction of the Department of Revenue (DOR) to the Secretary of State (SOS). Deletes the requirement that all revenue rulings and letter rulings issued by DOR be subject to the Uniform Administrative Procedures Act. Requires any administrative judge or hearing officer positions currently filled in DOR to be transferred to the SOS.

ESTIMATED FISCAL IMPACT:

**Increase State Expenditures – \$23,500/One-Time
\$327,600/Recurring**

Other Fiscal Impact – Five positions, as well as \$327,600 in recurring funding, will shift from the Department of Revenue to the Secretary of State beginning in FY11-12.

Assumptions:

- Based on information provided by SOS, DOR had 13 contested case hearings in 2009 and three in 2010. The number of informal conference hearings was approximately 450 in 2010. These numbers are assumed to remain constant in subsequent years.
- Based on information provided by DOR, five positions will shift from the Department to SOS. These five positions are the equivalent of two Hearing Officer 2 positions, two Hearing Officer 1 positions, and one legal assistant.
- Based on information provided by DOR, the shift of recurring funding from DOR to SOS for these five transferred positions will be approximately \$327,564 (\$220,680 for salaries, \$106,884 for benefits).
- There will be a one-time increase in state expenditures of approximately \$23,500 for providing computers, software, and communications for the five transferred employees once employed by the SOS.
- According to DOR, this bill does not explicitly eliminate the informal conference process conducted by the Department. Pursuant to Tenn. Code Ann. § 67-1-1801(c)(3), the taxpayer shall have the right to an informal conference with the Commissioner of Revenue to discuss assessments and to present such matters as may be relevant to the assessment; provided, that written request for such conference is made within thirty (30) days from the date of the notice of an assessment.

- Given that taxpayers could still request an informal conference hearing pursuant to Tenn. Code Ann. § 67-1-1801(c)(3), DOR will require five replacement positions in order to comply with this section of law. As a result, the Department will require appropriations for the new replacement positions. The recurring increase in state expenditures will be \$327,564 (\$220,680 for salaries, \$106,884 for benefits). There will be no one-time state expenditures associated with the replacement positions because the Department will have retained computer and software resources relative to the transferred positions.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/rnc